

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BERNETTA LASHAY WILLIS,)	
)	
Petitioner/Defendant,)	
)	
v.)	CR 2:06-cr-071-MEF-CSC-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

UNITED STATES’S REPOSENSE TO § 3582(c)(1)(A) MOTION

COMES NOW the United States of America (“the Government”) by and through its attorneys, LOUIS V. FRANKLIN, SR. United States Attorney, and Brett J. Talley, Assistant United States Attorney, and in compliance with this Court’s December 23, 2019, Order (Doc. 387), respectfully submits this response in opposition to Petitioner/Defendant Bernetta Lashay Willis’s Motion Under 18 U.S.C. § 3582(c)(1)(A) for modification of her sentence.

Pursuant to the First Step Act of 2018, in order to receive relief under § 3582(c)(1)(A), the request must either come “upon motion of the Director of the Bureau of Prisons” or “upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf. . .” or after the Bureau has

been guilty of undo delay. *See, e.g., Cruz-Pagan v. Warden, FCC Coleman-Low*, 486 F. App'x 77, 79 (11th Cir. 2012) (“The plain meaning of this section requires a motion by the Director as a condition precedent to the district court before it can reduce a term of imprisonment.”). The present motion comes to this Court via Willis, not the Director of the Bureau of Prisons. Thus, to succeed, she must show that she has fully exhausted all administrative remedies before the Court can consider her request.

Although no longer a jurisdictional requirement, petitioner’s failure to exhaust administrative remedies bars relief. *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). Willis makes no claim that she has asked the Director of the Bureau of Prisons to file a motion on her behalf. Moreover, she has not shown that she has exhausted any administrative rights she might have to appeal the Director’s refusal to file such a motion. Since Willis’s motion does not comport with the requirements of § 3582(c)(1)(A), it is due to be denied.

Even if Willis had exhausted her administrative remedies, she must still show “extraordinary and compelling reasons” that her motion should be granted. 18 U.S.C. § 3582(c)(1)(A)(i). Although she may not be happy with her medical care, the face of Willis’s motion demonstrates that she is receiving treatment from doctors and nurses and that she has access to hospital facilities. Willis provides no medical records to support a claim that she requires medical care above and

beyond what she is receiving at this time. She provides no records to demonstrate that she is being neglected or mistreated. And she certainly provides no evidence that she is eligible for a sentencing reduction or compassionate release. Willis has failed to show extraordinary and compelling reasons that her claims have merit.

The Court should deny Willis's § 3582(c)(1)(A) motion.

Respectfully submitted this 31st day of December, 2019.

LOUISV. FRANKLIN SR.
UNITED STATES ATTORNEY

/s/ Brett J. Talley
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CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2019, I electronically filed the foregoing response with the Clerk of the Court using the CM/ECF system and mailed, postage prepaid, a copy of the same to the *pro se* Petitioner as follows:

Bernetta Willis
Reg. No. 11880-002
Carswell Federal Medical Center
Inmate Mail/Parcels
P. O. Box 27237
Fort Worth, TX 76127

Respectfully submitted,

LOUIS V. FRANKLIN SR.
UNITED STATES ATTORNEY

/s/ Brett J. Talley

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